

LISA M. GRIFFITH  
LITTLER MENDELSON  
A Professional Corporation  
Attorneys for Defendants  
SES Operating Corp, Inc., et al.  
532 Broadhollow Road  
Suite 142  
Melville, NY 11747  
631.293.4525

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Lydia Velez,

Plaintiff,

-against-

SES Operating Corp, Inc., et al.,

Defendants.

Index No. 07-CV-10946 (GEL)

**AFFIRMATION OF LISA M.  
GRIFFITH**

LISA M. GRIFFITH, an attorney duly licensed to practice law before the Courts of the State of New York, hereby affirms the following to be true under penalties of perjury:

1. I am an attorney with the law firm of Littler Mendelson, P.C., attorneys for the Defendants in this matter. I submit this affirmation in reply to Plaintiff's Affirmation/Memorandum of Law in Opposition and in further support of Defendants' Motion to Amend the Answer and for Partial Judgment on the Pleadings.

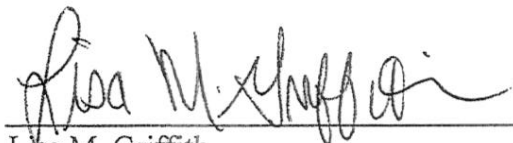
2. Plaintiff's counsel claims in paragraph "4" of his affirmation that "initial disclosures were made by both parties and depositions awaiting to proceed." In paragraph "8" plaintiff states "there is an indication in the subject Motion that plaintiff was not served Initial Disclosures." Although convoluted, it appears that Plaintiff is arguing that he served Defendants with Plaintiff's Initial Disclosures and that Defendants received such Initial Disclosures prior to serving and filing the instant Motion. However, annexed hereto as Exhibit "1," is a copy of

Plaintiff's Initial Disclosures and the envelope in which they were mailed. The postmark on the envelope is May 16, 2008, two days *after* Defendants served and filed their initial motion papers. Furthermore, as confirmed by the date stamp from Defendants' law office, Defendants did not receive Plaintiff's Initial Disclosures until May 20, 2008, six days after serving and filing the instant Motion.

3. Plaintiff's attorney claims in paragraph 14 of his affirmation that "a request by the undersigned for a one-week adjournment to submit further opposition to the Motion, 6 business days after receiving same, was refused." Plaintiff's attorney misstates the facts. Rather, on June 2, 2008, I sent an e-mail to Plaintiff's attorney, which was confirmed in a letter sent to Plaintiff's counsel and the Court, consenting to Plaintiff's request for a one-week extension of time to submit opposition to Defendants' motion. A copy of the correspondence is collectively annexed hereto as Exhibit "2."

4. For these reasons, and those set forth in Defendants' Motion to Amend the Answer and for Partial Judgment on the Pleadings, and all papers submitted in support thereof, Defendants respectfully request that the Court grant Defendants' Motion to Amend the Answer and for Partial Judgment on the Pleadings.

Date: June 19, 2008  
Melville, New York



Lisa M. Griffith  
LITTLER MENDELSON  
A Professional Corporation  
532 Broadhollow Road  
Suite 142  
Melville, NY 11747  
631.293.4525

Attorneys for Defendants  
SES Operating Corp, Inc., et al.

# **EXHIBIT 1**

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

**LYDIA VELEZ,**

***Plaintiff,***

***- against -***

**SES OPERATING CORP., HARLEM EAST LIFE PLAN,  
and HARLEM EAST LIFE PLAN-SES CORP.,**

***Defendants.***

***Civil Action No.  
#07-CV-10946 (GEL)***

**PLAINTIFF'S  
RESPONSE TO  
REQUEST FOR  
INTERROGATORIES**

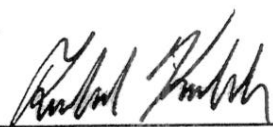
Plaintiff, **LYDIA VELEZ**, by her attorney, provides as follows:

1. Plaintiff objects to said Demand as overbroad, vague and improper.  
Without waiving objection, plaintiff, LYDIA VELEZ, defendants, SHERYL HUNT, MARJORIE THADAL and other employees of the defendants have knowledge of the claims of plaintiff asserted herein.
2. None.
3. None.
4. The Concourse Medical Center, 880 Morris Avenue, Bronx, New York 10451, counselor.
5. Plaintiff objects to same as overbroad, vague and improper.  
Without waiving objection, none beyond that referenced above.
6. Plaintiff objects to said demand as improper, overbroad and vague.  
Without waiving objection, based upon the claims alleged in plaintiff's Complaint, she is entitled to the amounts detailed therein.

7. Without waiving attorney-client privilege, plaintiff's action is currently being handled on a contingency basis, although a computation regarding hours worked and fees for same is being maintained as an alternative method of payment.
8. None.
9. Plaintiff objects to said demand as improper, overbroad and vague. Without waiving objection, no investigator has been hired in the matter.
10. Plaintiff objects to said demand as overbroad, improper and vague.
11. All documentation relative to plaintiff previously disclosed by the defendants.
12. Not applicable.
13. Sheryl Hunt and Marjorie Thadal, from the date of her employment through her May 25, 2006 termination, as well as subsequent thereto, including upon August 7, 2006.
14. As referenced in "13" above, as well as her co-workers, the identities of which shall be provided.
15. The dates referenced above.
16. See "15" above.
17. See "14" above.
18. See "14" above.
19. See "14" above.

The plaintiff reserves the right to supplement and/or amend this response  
up to and through the time of trial.

Dated: New York, New York  
May 14, 2008

BY:   
RICHARD KUBICK  
ATTORNEY FOR PLAINTIFF  
7 E. 14<sup>TH</sup> ST.  
NY, NY 10003  
212.684.7541



**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

**LYDIA VELEZ,**

***Plaintiff,***

**- against -**

**SES OPERATING CORP., HARLEM EAST LIFE PLAN,  
and HARLEM EAST LIFE PLAN-SES CORP.,**

***Defendants.***

**Civil Action No.  
#07-CV-10946 (GEL)**

**PLAINTIFF'S  
RESPONSE TO  
REQUEST FOR  
PRODUCTION OF  
DOCUMENTS**

Plaintiff, **LYDIA VELEZ**, by her attorney, provides as follows:

1. Plaintiff is not in possession of any of the documentation demanded therein beyond that previously disclosed by defendants.

Plaintiff reserves the right to supplement and/or amend this response up to and through the time of trial.

Dated: New York, New York  
May 14, 2008

BY: 

**RICHARD KUBICK  
ATTORNEY FOR PLAINTIFF  
7 E. 14<sup>TH</sup> ST.  
NY, NY 10003  
212.684.7541**

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

**LYDIA VELEZ,**

**Plaintiff,**

**- against -**

**SES OPERATING CORP., HARLEM EAST LIFE PLAN,  
and HARLEM EAST LIFE PLAN-SES CORP.,**

**Defendants.**

**Civil Action No.  
#07-CV-10946 (GEL)**

**PLAINTIFF'S  
INITIAL DISCLOSURE**

Plaintiff, **LYDIA VELEZ**, by her attorney, provides as follows:

1. Sheryl Hunt and Marjorie Thadal, employees of defendant.
2. Plaintiff does not currently anticipate any witnesses whose testimony is expected to be presented by means of a deposition and, if not stenographically, a transcript of the pertinent portions of the deposition testimony.
3. No documentation beyond that previously disclosed by defendant.
4. Any insurance coverage of plaintiff inapplicable.

Plaintiff reserves the right to supplement and/or amend this response up to and through the time of trial.

Dated: New York, New York  
May 14, 2008

BY: 

RICHARD KUBICK  
ATTORNEY FOR PLAINTIFF  
7 E. 14<sup>TH</sup> ST.  
NY, NY 10003  
212.684.7541



**RICHARD KUBICK**  
ATTORNEY AT LAW  
7 E. 14TH ST.  
NY NY 10003

NEW YORK NY 10003

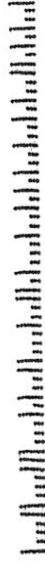
15 MAY 2008 PM 12:11

LET US CARE TO REPLY  
THINK SPEAK AND  
JOHN ADAMS 1767  
FOREVER

*Little Mendelson, P.C.  
523 Broadhollow Rd.  
Melville, NY 11747*

*POSTAGE*

11747+3724



RECEIVED  
MAY 20 2008

# **EXHIBIT 2**

**Griffith, Lisa M.**

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**From:** Griffith, Lisa M.  
**Sent:** Monday, June 02, 2008 6:18 PM  
**To:** 'kubicklaw@aol.com'  
**Cc:** Bauer, John T.  
**Subject:** Lydia Velez v. SES Operating Corp.

Judge Lynch's clerk, Tom Lue, called today. He stated that he also reached out to you.

Mr. Lue stated that the Judge would like Plaintiff's opposition to our Rule 37 (discovery) motion and Defendants' reply to Plaintiff's opposition submitted as one joint letter to the Court. To that end, we request that you to send me Plaintiff's opposition by email in Word format one week from today, on June 9th, so we can add Defendants' reply to that document and send it to the Judge as a joint letter by June 16, 2008.

Mr. Lue also advised me that your contacted the Court this past Friday to ask for an extension of time to serve Plaintiff's opposition to our Motion to Amend and for Judgment on the Pleadings. Mr. Lue asked that we reconsider whether to consent to your request for an extension. We have reconsidered and we consent to your request for a one- week extension of time to serve Plaintiff's opposition to our Motion to Amend and for Judgment on the Pleadings, until June 9, 2008.

Lisa M. Griffith  
Littler Mendelson, P.C.  
532 Broadhollow Road  
Suite 142  
Melville, New York 11747  
Direct Dial: 631.247.4709  
Fax: 631.293.4526  
email: lgriffith@littler.com



FACSIMILE COVER SHEET

June 3, 2008

To: Richard Kubick, Esq. Fax: 212.243.2926  
The Honorable Gerard E. Lynch 212.805.0436

Fax #(s) verified before sending (initial):

From: Lisa M. Griffith Fax: 631.293.4526 Phone: 631.247.4709

Length, including this cover letter: 3 Pages

If you do not receive all pages, please call Sender's Phone Number.

Message:

CONFIDENTIALITY – The information contained in this fax message is intended only for the personal and confidential use of the designated recipient(s) named above. This message is a communication from attorneys or their agents relating to pending legal matters and, as such, is intended to be privileged and/or confidential. If the reader of this message is not the intended recipient or an agent responsible for delivering it to the intended recipient, you are hereby notified that you have received this document in error, and that any review, dissemination, distribution or copying of this message is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return the original message to us by mail. Thank you.

Transmittal Completed: 6:09 am pm Client Code: 051929.1004 User Number: 2479



Jun 03 2008 6:14PM

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Last Transaction

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|-------|--------|----------|-------------|----------|-------|--------|
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HP Officejet 6310xi

Log for

Personal Printer/Fax/Copier/Scanner

Jun 03 2008 6:17PM

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Last Transaction

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|-------|--------|----------|-------------|----------|-------|--------|
| Jun 3 | 6:15PM | Fax Sent | 12128050436 | 1:22     | 3     | OK     |



June 3, 2008

Lisa M. Griffith  
Direct: 631.247.4709  
Direct Fax: 631.293.4526  
lgriffith@littler.com

VIA MAIL AND FACSIMILE 212.243.2926

Richard Kubick, Esq.  
7 E. 14th Street  
New York, New York 10003

Re: **Lydia Velez v. SES Operating Corp., et al.**  
**Civil Action No. 07-CV-10946 (GEL)**

Dear Mr. Kubick:

We represent the Defendants in the above-referenced action. We write to confirm the schedules for Defendants' Motion to Amend the Answer and for Partial Judgment on the Pleadings and Defendants' motion pursuant to Federal Rule of Civil Procedure 37. We also write to advise you that Plaintiff's deposition cannot go forward on June 17, 2008, as noticed.

On May 14, 2008, we served by mail<sup>1</sup> Defendants' Motion to Amend the Answer and for Partial Judgment on the Pleadings. Based on Federal Rule of Civil Procedure 6(a) and (e) and Local Civil Rule 6.1(b), Plaintiff's opposition to that motion was supposed to be served on June 2, 2008. On May 27, 2008, you requested a one-week extension of time to serve Plaintiff's opposition papers. We denied your request because, among other reasons, we previously granted you several extensions concerning discovery deadlines with which you failed to comply. Sometime thereafter, you requested an extension from the Court. Mr. Tom Lue, U.S. District Court Judge Lynch's clerk, contacted me yesterday asking that we reconsider your request for an extension. As I advised you yesterday by e-mail, we consent to a one week extension of time, until June 9, 2008, for you to serve Plaintiff's opposition to Defendant's Motion to Amend the Answer and for Partial Judgment on the Pleadings.

On May 28, 2008, Defendants served you by mail with a motion pursuant to Federal Rule of Civil Procedure 37. Based on Federal Rule of Civil Procedure 6(a) and (e) and Local Civil Rule 6.1(a), Plaintiff's opposition to that motion must be served on June 6, 2008. Mr. Lue asked that we submit Plaintiff's opposition and Defendants' reply to the Rule 37 motion together in one joint letter to the Court. In my e-mail to you yesterday, we asked that you serve us with Plaintiff's opposition on or before June 9, 2008. You responded that you need more time to serve the opposition papers, until June 16, 2008. We consent to your request

<sup>1</sup> As we have advised you previously, your failure to sign-up with the ECF system for electronic filing, notice and service complicates the litigation of this case. This case was designated an ECF case on December 3, 2007. See Docket Sheet. Rule 2.1 of the SDNY Electronic Case Filing Rules and Instructions states that "attorneys who are not already Filing Users appearing in cases assigned to the ECF system *must* register as Filing Users *forthwith* upon the case being so designated." *Id.* (emphasis added).

Richard Kubick, Esq.  
June 3, 2008  
Page 2

and ask that you e-mail Plaintiff's opposition to me on or before June 16, 2008 as an attachment in a Word document. We will then add Defendants' reply to that letter and submit it to the Court no later than June 23, 2008.

Accordingly, the following are the new schedules for Defendants' motions:

Defendants' Motion to Amend the Answer and for Partial Judgment on the Pleadings:

Plaintiff's opposition to be served on or before June 9, 2008.

Defendants' reply to be served and all papers to be filed with the Court on June 19, 2008.

Defendants' Rule 37 Motion:

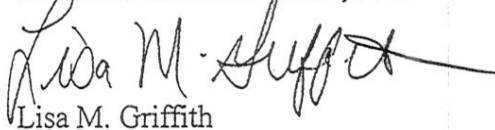
Plaintiff's opposition to be served on or before June 16, 2008.

Defendants will reply and file the joint-letter with the Court by June 23, 2008.

We noticed Plaintiff's deposition for June 17, 2008. However, your failure to provide Defendants with timely initial disclosures and responses to Defendants' First Set of Interrogatories and First Request for the Production of Documents, together with the pending motions, makes it apparent that the deposition cannot go forward on June 17<sup>th</sup>. We will contact you after the Court renders its decisions on Defendants' motions to reschedule Plaintiff's deposition.

Very truly yours,

LITTLER MENDELSON, P.C.

  
Lisa M. Griffith

cc: **By Facsimile 212.805.0436**  
The Honorable Gerard E. Lynch  
U.S. District Court Judge

**AFFIDAVIT OF SERVICE**  
**BY FAX AND CERTIFIED MAIL/RETURN RECEIPT REQUESTED**

STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF SUFFOLK)

Stefanie Attanasio, being duly sworn, deposes and says, that deponent is not a party to the action, is over 18 years of age and resides in Commack, New York. That on the 19<sup>th</sup> day of June, 2008, deponent served a copy of the within Affirmation of Lisa M. Griffith upon:

Richard Kubick, Esq.  
7 East 14<sup>th</sup> Street  
New York, New York 10003  
*facsimile 212.243.2926 and  
Certified Mail, Return Receipt Requested*

enclosed in a postpaid properly addressed wrapper, in an official depository under the exclusive care and custody of the United States Postal Service within New York State.

Stefanie Attanasio  
Stefanie Attanasio

Sworn to before me this  
19<sup>th</sup> day of June, 2008.

M. W. W. W. W. W.  
Notary Public

MAUREEN WILLET  
Notary Public, State of New York  
No. 4874655  
Qualified in Nassau County  
Commission Expires October 27, 20 10



**AFFIDAVIT OF SERVICE**  
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New York, New York 10003  
*facsimile 212.243.2926 and  
Certified Mail, Return Receipt Requested*

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Stefanie Attanasio  
Stefanie Attanasio

Sworn to before me this  
19<sup>th</sup> day of June, 2008.

M. W. W. W. W.  
Notary Public

MAUREEN WILLETT  
Notary Public, State of New York  
No. 4874655  
Qualified in Nassau County  
Commission Expires October 27, 20 10